

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

(1) JIM D. JOHNSON, and)
(2) AMY JOHNSON,)
)
Plaintiffs,)
)
) **13-cv129- CVE FHM**
vs.)
)
) **The Honorable Claire V. Eagan**
(1) LOVE, BEAL & NIXON, PC, and,)
(2) INFINITY ASSET ACCEPTANCE, LLC.)
)
Defendants.)

PLAINTIFFS' MOTION FOR ENTRY OF DEFAULT BY THE CLERK

COMES NOW the Plaintiffs, Jim and Amy Johnson, through their attorney, Victor R. Wandres, and hereby requests that this Honorable Court direct the Clerk of this Court to enter a default against Defendant, INFINITY ASSET ACCEPTANCE, LLC ("Infinity"). In support thereof, Plaintiffs state as follows:

1. Plaintiffs filed their original Complaint on March 5, 2013. [Doc. 2].
2. On June 18, 2013, Plaintiffs filed their Amended Complaint. [Doc. 5].
3. Plaintiffs' Amended Complaint alleges, *inter alia*, violations of the Fair Debt Collection Practices Act, 15 USC 1692 et seq., violation of the Oklahoma Consumer Protection Act, wrongful garnishment, breach of privacy, and abuse of process [Doc. 5].
4. Plaintiffs seek statutory and actual damages pursuant to the above-mentioned causes of action and reasonable attorney's fees. [Doc. 5].
5. On May 9, 2013, Defendant Infinity was served with Plaintiffs' Amended Complaint and Summons. See Certificate of Service and referenced exhibits [Docs. 14 & 15].

6. Defendant Infinity received service of Plaintiffs' Amended Complaint on July 29, 2013. Defendant Infinity's Answer to Plaintiffs' Amended Complaint was due on or before August 19, 2013.

7. Defendant Infinity has not filed its Answer nor contacted Plaintiffs' attorneys requesting an extension to answer.

8. Federal Rule of Civil Procedure 55(a) provides that "when a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party's default."

9. Defendant Infinity is not a minor or an incompetent person. Defendant Infinity is not serving in our country's armed forces. It is a company.

10. Defendant Infinity has failed to plead or otherwise defend itself against Plaintiffs' Amended Complaint.

WHEREFORE, Plaintiffs respectfully request this Honorable Court grant their instant request and direct the Clerk of this Court to enter a default against Defendant, INFINITY ASSET ACCEPTANCE, LLC for failure to timely plead or otherwise defend against Plaintiffs' Amended Complaint.

Respectfully Submitted,

/s/ Victor R. Wandres
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